

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

JOHNNY STEVE PARKER

PLAINTIFF

v.

CIVIL NO. 1:16-cv-00206-GHD-JMV

MARSHALL L. FISHER

DEFENDANT

ORDER DENYING CERTIFICATE OF APPEALABILITY

A final order having been issued in this 28 U.S.C. §2254 *habeas corpus* proceeding in which the detention complained of arises out of process issued by a state court, the Court, considering the record in the case and the requirements of Fed. R. App. P. 22(b) and 28 U.S.C. § 2253(c), hereby finds that a Certificate of Appealability should not issue in this matter.

For the reasons stated in the Court's original opinion, the Court finds that the Petitioner has failed to "demonstrate that the issues are debatable among jurists of reason; that a court could resolve issues in a different manner; or that the questions are adequate to deserve encouragement to proceed further." *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1993) (superceded by statute) (citations and quotations omitted); 28 U.S.C. § 2253(1) and (2). Specifically, the Court finds, for the reasons set forth in its original opinion and judgment, that the instant Petition for a writ of *habeas corpus* is untimely and that the Petitioner cites no extraordinary circumstances to warrant equitable tolling and did not act with reasonable diligence in filing his Petition.

Accordingly, it is hereby ORDERED that a Certificate of Appealability should NOT ISSUE in this matter.

SO ORDERED, this, the ^{TP}10 day of January, 2018.



SENIOR U.S. DISTRICT JUDGE